



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Charles D. Baker
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Secretary

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Commissioner

August 6, 2015

Mr. Kevin McLaughlin
President
Fairhaven Shipyard Company, Inc. -
North Shipyard
32 Water Street
Fairhaven, MA 02719-2866

RE: Fairhaven
Transmittal No.: X231360
Application No.: SE-12-030
Class: OP
FMF No.: 193385
AIR QUALITY PLAN APPROVAL

Dear Mr. McLaughlin:

The Massachusetts Department of Environmental Protection ("MassDEP"), Bureau of Air and Waste, has reviewed your Limited Plan Application ("Application") listed above. This Application concerns the proposed removal and application of marine coatings at your Fairhaven Shipyard shipbuilding and ship repair facility located at 32 Water Street, Fairhaven, Massachusetts ("Facility").

This Application was submitted in accordance with 310 CMR 7.02 Plan Approval and Emission Limitations as contained in 310 CMR 7.00 "Air Pollution Control," regulations adopted by MassDEP pursuant to the authority granted by Massachusetts General Laws, Chapter 111, Section 142 A-J, Chapter 21C, Section 4 and 6, and Chapter 21E, Section 6. MassDEP's review of your Application has been limited to air pollution control regulation compliance and does not relieve you of the obligation to comply with any other regulatory requirements.

MassDEP has determined that the Application is administratively and technically complete and that the Application is in conformance with the Air Pollution Control regulations and current air pollution control engineering practice, and hereby grants this **Plan Approval** for said Application, as submitted, subject to the conditions listed below.

Please review the entire Plan Approval, as it stipulates the conditions with which the Facility owner/operator ("Permittee") must comply in order for the Facility to be operated in compliance with this Plan Approval.

1. DESCRIPTION OF FACILITY AND APPLICATION

The Permittee currently repairs and refits sea going commercial marine vessels and constructs new vessels. The Permittee has requested approval to remove and apply marine coatings at the Facility, and establish federally enforceable limits on the potential to emit.

The North Shipyard encompasses approximately 6.5 acres of land, and operates a marine railway and a 440 ton travel lift to haul vessels out of the water for mechanical and surface repairs.

Vessels are hauled out of the water for structural and mechanical repair and/or the removal and application of marine coatings, which includes, but is not limited to paint. Vessel surfaces are prepared for coating application by the use of power tools or high pressure water (hydro-blasting). The marine coating operations consist of brush and roller application, as well as high volume low pressure (HVLP) spray coating application. The marine coating activities are subject to the requirements of 40 Code of Federal Regulations (CFR) Part 63, Subpart II, National Emission Standards for Shipbuilding and Ship Repair (Surface Coating). Fugitive emissions from hydro-blasting and marine coating activities are controlled using the Management Strategies contained in the Facility's Noise, Dust and Odor Management Plan, which includes utilization of tarps and enclosures. Other repair activities include welding (primarily electric arc welding) and machining operations, including the use of mechanical grinders, presses, and lathes.

Surface preparation tools include electrically, or pneumatically powered needle scalars, scaling hammers, roto peens, needle guns, sanders, grinders, strippers and scarifiers. Particulate matter generated from the sanders is collected with the assistance of a vacuum.

Marine coatings are usually hand-applied with brushes and rollers, and may be applied with a HVLP paint spray gun. At this time, the Permittee uses a 3M Accuspray Series 10 HVLP spray gun.

Potential air emissions from Facility's vessel building, repair, and refit activities include: Volatile Organic Compounds (VOCs) and Hazardous Air Pollutants (HAPs), Particulate Matter (PM), Particulate Matter less than or equal to 10 microns in diameter (PM₁₀), and Particulate Matter less than or equal to 2.5 microns in diameter (PM_{2.5}).

The Permittee is subject to the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for Shipbuilding and Ship Repair (Surface Coating) under Title 40 of the Code of Federal Regulations (CFR) Part 63, Subpart II.

Best Available Control Technology at the Facility includes the use of marine coatings consistent with the VOC-compliant material standard contained in the 40 CFR 63 Subpart II NESHAPs, and the use of:

- high volume low pressure (HVLP) paint sprayers;
- enclosures for particulate-generating paint operations;
- Shrouded and/or Vacuum Assisted (SVA) tools.

2. **EMISSION UNIT (EU) IDENTIFICATION**

Each Emission Unit (EU) identified in Table 1 is subject to and regulated by this Plan Approval:

Table 1			
EU#	Description	Design Capacity	Pollution Control Device (PCD)
1	High Pressure Hydro Washing Marine Paint Removal Marine Surface Preparation Marine Coating Application	n/a	none

Table 1 Key:

EU# = Emission Unit Number

PCD = Pollution Control Device

n/a = not applicable

3. **APPLICABLE REQUIREMENTS**

A. **OPERATIONAL, PRODUCTION and EMISSION LIMITS**

The Permittee is subject to, and shall not exceed the Operational, Production, and Emission Limits as contained in Table 2:

Table 2						
EU #	Operational / Production Limit			Air Contam- inant	Emission Limit ⁵	
1 ²	1. Limit material usage such that PM / PM ₁₀ / PM _{2.5} emissions do not exceed the emissions limits listed herein. ^{1,4}			PM / PM ₁₀ / PM _{2.5}	1.0 TPY	
					0.3 TPM	
	2. Limit material usage such that HAP (single) emissions do not exceed the emissions limits listed herein.			HAP ³ (single)	9.9 TPY	
					3.3 TPM	
	3. Limit material usage such that HAP (total) emissions do not exceed the emissions limits listed herein.			HAP (total)	9.9 TPY	
					3.3 TPM	
	4. Limit material usage such that VOC content and emissions do not exceed the emissions limits stated below and listed herein.			VOC	9.9 TPY 3.3 TPM	
						VOC Limits ^{a,b,f}
	Coating Category	Grams/liter coating ^e	Grams/liter solids ^c T > 4.5 degrees C			Grams/liter solids ^{c,d} T < 4.5 degrees C
	General Use	340	571			728
	<u>Specialty:</u>					
	Air Flask	340	571			728
	Antenna	530	1439			
	Antifoulant	400	765			971
	Heat Resistant	420	841			1069
	High-gloss	420	841			1069
	High-temperature	500	1237			1597
	Inorganic Zinc High-build	340	571			728
	Military Exterior	340	571			728
	Mist	610	2235			
	Navigational Aids	550	1597			
	Nonskid	340	571			728
	Nuclear ⁶	420	841			1069
	Organic Zinc	360	630			802
	Pretreatment Wash Primer	780	11095			
	Repair and Maintenance of Thermoplastics	550	1597			
	Rubber Camouflage	340	571			728
Sealant for Thermal Spray Aluminum	610	2235				
Special Marking	490	1178				
Specialty Interior	340	571	728			
Tack Coat	690	2235				
Undersea Weapons Systems	340	571	729			
Weld-through Precon. Primer	650	2885				

Table 2			
EU #	Operational / Production Limit	Air Contaminant	Emission Limit ⁵
	<p>a. The limits are expressed in two sets of equivalent units. Either grams per liter (g/L) or pounds per gallon (lb/gal), may be used to demonstrate compliance. See 40 CFR 63.785(c)</p> <p>b. To convert from g/L to lb/gal, multiply by (3.785 L/gal) (1 lb/453.6 lb/g) or 1/120. For compliance purposes, metric units define the standards. VOC does include exempt compounds listed as HAP.</p> <p>c. VOC limits expressed in units of mass of VOC per volume of solids were derived from the VOC limits expressed in units of mass of VOC per volume of coating assuming the coatings contain no water or exempt compounds and that the volumes of all components within a coating are additive. VOC does include exempt compounds listed as HAP.</p> <p>d. These limits apply during cold-weather time periods (i.e. temperatures below 4.5 Degrees Centigrade). Cold-weather allowances are not given to coatings in categories that permit less than 40 percent solids (nonvolatiles) content by volume. Such coatings are subject to the same limits regardless of weather conditions.</p> <p>e. Minus water and exempt compounds.</p> <p>f. VOC (including exempt compounds listed as HAP) shall be used as a surrogate for VOHAP for those compliance procedures described in 40 CFR 63.785(c) (1) through (3).</p>		

Table 2 Key:

EU# = Emission Unit Number

PM = Total Particulate Matter

PM₁₀ = Particulate Matter less than or equal to 10 microns in diameter

PM_{2.5} = Particulate Matter less than or equal to 2.5 microns in diameter

VOC = Volatile Organic Compounds

HAP (single) = maximum single Hazardous Air Pollutant

HAP (total) = total Hazardous Air Pollutants

TPM = tons per month

TPY = tons per consecutive 12-month period

C = Centigrade

T = Temperature

≥ = greater than or equal to

< = less than

CFR = Code of Federal Regulations

VOHAP = Volatile organic hazardous air pollutant, which means any compound listed in or pursuant to section 112(b) of the Clean Air Act that contains carbon, excluding metallic carbides and carbonates. This definition includes VOC listed as HAP and exempt compounds listed as HAP.

Notes:

1. Includes particulate emissions from spray painting operations.
2. Includes coatings applied with spray guns, brushes, and rollers.
3. Currently, the single largest HAP is xylene.
4. Particulate matter emission based on High Velocity Low Pressure spray paint gun transfer efficiency of 70%, and a particle settling rate of 90% within an enclosure. Source: Paint Basics and Emission Calculations, Texas Commission on Environmental Quality, October 11, 2006.
5. The Permittee may reconcile VOC and HAP contained in any solvent waste shipped during the month when determining monthly emissions provided that verifiable records are maintained demonstrating the VOC and HAP content, and quantity present in the waste being shipped if reconciling monthly usage and emissions.
6. Nuclear specialty coating means any protective coating used to seal porous surfaces such as steel (or concrete) that otherwise would be subject to intrusion by radioactive materials.

B. COMPLIANCE DEMONSTRATION

The Permittee is subject to, and shall comply with, the monitoring, testing, record keeping, and reporting requirements as contained in Tables 3, 4, and 5:

Table 3	
EU#	Monitoring and Testing Requirements
1	1. The Permittee shall monitor the use of solvents, thinners, and coatings, to include VOC and HAP used and emitted, in order to demonstrate compliance with operational and emission limits contained in Table 2, and with 40 CFR 63 Subpart II.
	2. The Permittee shall monitor all operations to ensure sufficient information is available to comply with 310 CMR 7.12 Source Registration.
	3. If and when MassDEP requires it, the Permittee shall conduct emission testing in accordance with USEPA Reference Test Methods and regulation 310 CMR 7.13.

Table 3 Key:

EU# = Emission Unit Number
VOC = Volatile Organic Compounds
HAP = Hazardous Air Pollutant
CMR = Code of Massachusetts Regulations
USEPA = United States Environmental Protection Agency
CFR = Code of Federal Regulations

Table 4	
EU#	Record Keeping Requirements
1	1. The Permittee shall maintain adequate records on-site to demonstrate compliance with all operational, production, and emission limits contained in Table 2 above, and with 40 CFR 63 Subpart II. Detailed daily records shall be kept for EU#1. Records shall also list: actual amount of all VOC-, HAP-, and PM-containing materials used per month and 12-month rolling period (the total of the current month's emissions plus the emissions from the 11 months preceding the current month). These records shall be compiled no later than the 15 th day following each month. An electronic version of the MassDEP approved record keeping form, in Microsoft Excel format, can be downloaded at http://www.mass.gov/dep/air/approvals/aqforms.htm#report .

Table 4	
EU#	Record Keeping Requirements
	2. The Permittee may reconcile VOC and HAP contained in any solvent waste shipped during the month when determining monthly emissions provided that verifiable records are maintained demonstrating the VOC and HAP content, and quantity present in the waste being shipped if reconciling monthly usage and emissions.
	3. The Permittee shall maintain records of monitoring and testing as required by Table 3.
	4. The Permittee shall maintain a copy of this Plan Approval, underlying Application and the most up-to-date SOMP for the EU approved herein on-site.
	5. The Permittee shall maintain a record of routine maintenance activities performed on the approved EU and monitoring equipment. The records shall include, at a minimum, the type or a description of the maintenance performed and the date and time the work was completed.
	6. The Permittee shall maintain a record of all malfunctions affecting air contaminant emission rates on the approved EU and monitoring equipment. At a minimum, the records shall include: date and time the malfunction occurred; description of the malfunction; corrective actions taken; the date and time corrective actions were initiated and completed; and the date and time emission rates and monitoring equipment returned to compliant operation.
	7. The Permittee shall maintain records to ensure sufficient information is available to comply with 310 CMR 7.12 Source Registration.
	8. The Permittee shall maintain records required by this Plan Approval on-site for a minimum of five (5) years.
	9. The Permittee shall make records required by this Plan Approval available to MassDEP and USEPA personnel upon request.

Table 4 Key:

EU# = Emission Unit Number

SOMP = Standard Operating and Maintenance Procedure

USEPA = United States Environmental Protection Agency

VOC = Volatile Organic Compounds

HAP = Hazardous Air Pollutant

PM = Particulate Matter

Table 5	
EU#	Reporting Requirements
1	1. The Permittee shall submit to MassDEP all information required by this Plan Approval over the signature of a “Responsible Official” as defined in 310 CMR 7.00 and shall include the Certification statement as provided in 310 CMR 7.01(2)(c).
	2. The Permittee shall notify the Southeast Regional Office of MassDEP, BAW Compliance and Enforcement (C/E) Chief by telephone (508) 946-2817, email sero.air@state.ma.us or fax (508) 947-6557 as soon as possible, but no later than one (1) business day after discovery of an exceedance(s) of Table 2 requirements. A written report shall be submitted to C/E Chief at MassDEP within three (3) business days thereafter and shall include: identification of exceedance(s), duration of exceedance(s), reason for the exceedance(s), corrective actions taken, and action plan to prevent future exceedance(s).
	3. The Permittee shall report annually to MassDEP, in accordance with 310 CMR 7.12, all information as required by the Source Registration/Emission Statement Form. The Permittee shall note therein any minor changes (under 310 CMR 7.02(2)(e), 7.03, 7.26, etc.), which did not require Plan Approval.
	4. The Permittee shall provide a copy to MassDEP of any record required to be maintained by this Plan Approval within 30 days from MassDEP’s request.
	5. The Permittee shall submit to MassDEP for approval a stack emission pretest protocol, at least 30 days prior to emission testing, for emission testing as defined in Table 3 Monitoring and Testing Requirements.
	6. The Permittee shall submit to MassDEP a final stack emission test results report, within 45 days after emission testing, for emission testing as defined in Table 3 Monitoring and Testing Requirements.

Table 5 Key:

EU# = Emission Unit Number

BAW = Bureau of Air and Waste

4. **SPECIAL TERMS AND CONDITIONS**

A. The Permittee is subject to and shall comply with the Special Terms and Conditions as contained in Table 6:

Table 6	
EU#	Special Terms and Conditions
1	<ol style="list-style-type: none">1. The Permittee shall install, operate, and maintain a physical barrier, located adjacent to any area where <u>high pressure hydro washing operations</u> are being conducted, in a manner such that said operations do not cause a condition of air pollution, as defined in 310 CMR 7.00, or otherwise constitute a nuisance condition.2. In the event that high pressure hydro washing operations cause a condition of air pollution, as defined in 310 CMR 7.00, the Permittee shall terminate said operations.3. At all times, including periods of startup, shutdown, and malfunction, the high pressure hydro washing operations shall, to the extent practicable, be maintained and operated in a manner consistent with air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to MassDEP, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.4. To minimize visible emissions and fugitive emissions, the Permittee shall minimize or, if necessary, terminate outdoor high pressure hydro washing operations if the prevailing wind direction and speed causes particulate matter from such activities to be transported to adjacent property or waterways causing a condition of air pollution as defined by 310 CMR 7.00 or otherwise cause a nuisance condition.

Table 6

EU#	Special Terms and Conditions
	<ol style="list-style-type: none"> 5. The Permittee shall conduct marine paint removal and surface preparation operations in a manner such that said operations do not cause a condition of air pollution, as defined in 310 CMR 7.00, or otherwise constitute a nuisance condition. 6. In the event that a specific surface preparation operation causes a condition of air pollution, as defined in 310 CMR 7.00, the Permittee shall terminate said operation. 7. The Permittee shall ensure that a physical noise barrier is installed, operated, maintained, and positioned where noise producing surface preparation operations in such a manner that said operations do not cause a condition of air pollution, as defined in 310 CMR 7.00, or otherwise constitute a nuisance condition. At the present time, steel intermodal containers are stacked upon each other, and form a physical barrier approximately 29 feet high, 8 feet wide, and 240 feet long. Currently, this physical barrier is positioned on the Permittee’s property between an existing building (described as 26 Water Street in the Application For Building Permit issued on October 30, 2014 by the Town of Fairhaven), along Water Street, and around the Union Street/Wharf corner, in Fairhaven, MA. The area enclosed by the physical barrier is designated as the “sound mitigation area”. 8. The Permittee shall not operate equipment with significant noise generating potential (such as needle guns and scalars) outside the “sound mitigation area” unless the Permittee determines that significant noise generating operations cannot be deferred until a “sound mitigation area” becomes available. Notwithstanding this Proviso, the Permittee shall not create a condition of air pollution as defined by 310 CMR 7.00, or otherwise cause a nuisance condition. 9. In a timely manner, the Permittee shall move vessels on which significant noise generating surface preparation or paint removal work is being conducted into the “sound mitigation area” when adequate space become available. 10. The Permittee shall limit significant noise generating activities along the Union Street/Wharf side of the “sound mitigation area” to times when the remainder of the “sound mitigation area” is full. 11. Where it is determined to be infeasible to locate a vessel to the “sound mitigation area” due to temporary vessel space restrictions or similar constraints, paint removal or surface preparation operations with the potential to generate significant noise shall, to the maximum extent possible, be conducted between the hours of 7:30 am and 4:00 pm, and then only between Monday thru Friday (inclusive), and exclusive of Massachusetts Legal Holidays, to the maximum extent possible. The Permittee shall keep a record of the restrictions, constraints and conditions when the Permittee conducts the operations as described in this Proviso.

Table 6

EU#	Special Terms and Conditions
	<p>12. The Permittee shall conduct marine surface preparation and marine coating operations in compliance with any applicable regulations contained at 40 CFR 63, Subpart II.</p> <p>13. During surface preparation operations, the Permittee shall use shrouded and/or vacuum assisted (SVA) tools ¹ that prevent particulate matter from leaving the immediate area, except where it is impractical, infeasible, or inaccessible ².</p> <p>14. At all times, including periods of startup, shutdown, and malfunction, the marine surface preparation and marine coatings operations shall, to the extent practicable, be maintained and operated in a manner consistent with air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to MassDEP, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.</p> <p>15. To minimize visible emissions and fugitive emissions, the Permittee shall:</p> <ul style="list-style-type: none"> a. Minimize or, if necessary, terminate outdoor surface preparation and/or spray coating application operations if the prevailing wind direction and speed causes particulate matter from such activities to be transported to adjacent property or waterways, which causes a condition of air pollution or a nuisance condition. b. Locate surface preparation and paint spray operations within the Facility, to minimize particulate matter from being transported to adjacent property or waterways. c. Use enclosures ³ when using HVLP paint spray guns (or equivalent) for spray coating operations. <p>16. The Permittee shall clean paint spray equipment in accordance with 310 CMR 7.03(16)(e).</p> <p>17. When extenuating circumstances prevent the Permittee from complying with the heretofore Special Terms and Conditions as contained in Table 6 of this Plan Approval, the Permittee shall record the date, time, duration, and reason. See Provisos 8 and 9, as contained in Table 4 of this Plan Approval.</p>
Facility-wide	<p>18. The Permittee shall operate all equipment in accordance with the equipment manufacturer's instructions.</p> <p>19. The Permittee shall conduct all handling and transferring operations involving VOC- and/or HAP-containing coatings, thinners and solvents in a way that minimizes spills and releases of VOCs and/or HAPs.</p> <p>20. The Permittee shall ensure the containers of VOC- and/or HAP-containing coatings, thinner and solvents are in good condition and do not leak, and shall remain closed, except to add or remove material from them.</p> <p>21. The Facility is subject to 40 CFR 63, Subpart II, NESHAPs for Shipbuilding and Ship Repair (Surface Coating). As of this date, MassDEP has accepted delegation of authority for 40 CFR 63 Subpart II for Operating Permit (310 CMR Appendix C) sources. Within one year from the date of this Air Quality Plan Approval issuance, the Permittee shall submit an Operating Permit application that reflects this Approval, 40 CFR 63 Subpart II, and any other requirements that apply to the Facility. Mr. Mark Poudrier (508-946-2783) of this office may be contacted for additional guidance on this matter.</p>

Table 6	
EU#	Special Terms and Conditions
	22. The Permittee has submitted a Noise, Dust, and Odor (NDO) Management Plan, which is incorporated by reference into this Approval. The Permittee shall maintain a current and up-to-date NDO Management Plan on-site, review the NDO Management Plan annually, and keep records of any changes required.
	23. The Permittee shall post the dated NDO Management Plan in a conspicuous area and shall review the NDO Management Plan with employees at least annually, or when there is change in the NDO Management Plan that affect an employee's job description or work activities.

Table 6 Key:

EU# = Emission Unit Number

NESHAPs = National Emission Standards for Hazardous Air Pollutants

CFR = Code of Federal Regulations

VOC = Volatile Organic Compounds

HAP = Hazardous Air Pollutants

CMR = Code of Massachusetts Regulations

HVLP = High Volume Low Pressure

NDO = Noise, Dust, and Odor

SVA = Shrouded and/or Vacuum Assisted

Notes:

1. Shrouded and/or Vacuum Assisted (SVA) tools are a type of hand-held equipment, which are specifically designed for the control and containment of particulate matter. An example of an SVA tool is a vacuum assisted sander.
2. MassDEP recognizes that SVA tools are highly practical, feasible and effective on flat and mostly flat surfaces, when the shroud surrounds the entire surface being prepared.
3. Examples of enclosures include, but are not limited to, activities conducted inside a vessel, a portable shelter, a portable cover, a shroud, a tent, a tarpaulin, and/or within a paint spray booth.

- B. The Permittee shall install and use an exhaust stack, as required in Table 7, on each of the Emission Units that is consistent with good air pollution control engineering practice and that discharges so as to not cause or contribute to a condition of air pollution. Each exhaust stack shall be configured to discharge the gases vertically and shall not be equipped with any part or device that restricts the vertical exhaust flow of the emitted gases, including but not limited to rain protection devices known as "shanty caps" and "egg beaters."
- C. The Permittee shall install and utilize exhaust stacks with the following parameters, as contained in Table 7, for the Emission Units that are regulated by this Plan Approval:

Table 7				
EU#	Stack Height Above Ground (feet)	Stack Inside Exit Dimensions	Stack Gas Exit Velocity Range (feet per second)	Stack Gas Exit Temperature Range (°F)
n/a	n/a	n/a	n/a	n/a

Table 7 Key:

EU# = Emission Unit Number

°F = Degree Fahrenheit

n/a = not applicable

5. GENERAL CONDITIONS

The Permittee is subject to, and shall comply with, the following general conditions:

- A. Pursuant to 310 CMR 7.01, 7.02, 7.09 and 7.10, should any nuisance condition(s), including but not limited to smoke, dust, odor or noise, occur as the result of the operation of the Facility, then the Permittee shall immediately take appropriate steps including shutdown, if necessary, to abate said nuisance condition(s).
- B. If asbestos remediation/removal will occur as a result of the approved construction, reconstruction, or alteration of this Facility, the Permittee shall ensure that all removal/remediation of asbestos shall be done in accordance with 310 CMR 7.15 in its entirety and 310 CMR 4.00.
- C. If construction or demolition of an industrial, commercial or institutional building will occur as a result of the approved construction, reconstruction, or alteration of this Facility, the Permittee shall ensure that said construction or demolition shall be done in accordance with 310 CMR 7.09(2) and 310 CMR 4.00.
- D. Pursuant to 310 CMR 7.01(2)(b) and 7.02(7)(b), the Permittee shall allow MassDEP and / or USEPA personnel access to the Facility, buildings, and all pertinent records for the purpose of making inspections and surveys, collecting samples, obtaining data, and reviewing records.
- E. This Plan Approval does not negate the responsibility of the Permittee to comply with any other applicable Federal, State, or local regulations now or in the future.

- F. Should there be any differences between the Application and this Plan Approval, the Plan Approval shall govern.
- G. Pursuant to 310 CMR 7.02(3)(k), MassDEP may revoke this Plan Approval if the construction work is not commenced within two years from the date of issuance of this Plan Approval, or if the construction work is suspended for one year or more.
- H. This Plan Approval may be suspended, modified, or revoked by MassDEP if MassDEP determines that any condition or part of this Plan Approval is being violated.
- I. This Plan Approval may be modified or amended when in the opinion of MassDEP such is necessary or appropriate to clarify the Plan Approval conditions or after consideration of a written request by the Permittee to amend the Plan Approval conditions.
- J. The Permittee shall conduct emission testing, if requested by MassDEP, in accordance with USEPA Reference Test Methods and regulation 310 CMR 7.13. If required, a pretest protocol report shall be submitted to MassDEP at least 30 days prior to emission testing and the final test results report shall be submitted within 45 days after emission testing.
- K. Pursuant to 310 CMR 7.01(3) and 7.02(3)(f), the Permittee shall comply with all conditions contained in this Plan Approval. Should there be any differences between provisions contained in the General Conditions and provisions contained elsewhere in the Plan Approval, the latter shall govern.

6. MASSACHUSETTS ENVIRONMENTAL POLICY ACT

MassDEP has determined that the filing of an Environmental Notification Form (ENF) with the Secretary of Energy & Environmental Affairs, for air quality control purposes, was not required prior to this action by MassDEP. Notwithstanding this determination, the Massachusetts Environmental Policy Act (MEPA) and 301 CMR 11.00, Section 11.04, provide certain “Fail-Safe Provisions,” which allow the Secretary to require the filing of an ENF and/or an Environmental Impact Report (EIR) at a later time.

7. APPEAL PROCESS

This Plan Approval is an action of MassDEP. If you are aggrieved by this action, you may request an adjudicatory hearing. A request for a hearing must be made in writing and postmarked within twenty-one (21) days of the date of issuance of this Plan Approval.

Under 310 CMR 1.01(6)(b), the request must state clearly and concisely the facts, which are the grounds for the request, and the relief sought. Additionally, the request must state why the Plan Approval is not consistent with applicable laws and regulations.

The hearing request along with a valid check payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100.00) must be mailed to:

Commonwealth of Massachusetts
Department of Environmental Protection
P.O. Box 4062
Boston, MA 02211

This request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver as described below. The filing fee is not required if the appellant is a city or town (or municipal agency), county, or district of the Commonwealth of Massachusetts, or a municipal housing authority.

MassDEP may waive the adjudicatory hearing-filing fee for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file, together with the hearing request as provided above, an affidavit setting forth the facts believed to support the claim of undue financial hardship.

Enclosed is a stamped approved copy of the application submittal.

Should you have any questions concerning this Plan Approval, please contact Dan Kamieniecki by telephone at 508-946-2717, or in writing at the letterhead address.

This final document copy is being provided to you electronically by the Department of Environmental Protection. A signed copy of this document is on file at the DEP office listed on the letterhead.

Thomas Cushing, Chief
Permit Section
Bureau of Waste Prevention

Enclosure

ecc: Fairhaven Board of Health/Dept of Health
Fairhaven Fire Department
MassDEP/Boston – Y. Tian
MassDEP/SERO - M. Pinaud
MassDEP/SERO – L. Ramos
MassDEP/SERO – M. Poudrier
MassDEP/SERO – D. DiSalvio
USEPA Region I – S. Calder
Woodward & Curran – K. Cowan, T. Ennis